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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/689,151

10/20/2003

Sumcet Sandhu

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EXAMINER

ADDY, THJUAN KNOWLIN

ART UNIT

PAPER NUMBER

2614

MAIL DATE

DELIVERY MODE

08/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/689,151

Applicant(s)

SANDHU, SUMEET

Examiner

Thjuan K. Addy

Art Unit

2614

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 July 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). *request for reconsideration*
7. ☒ For purposes of appeal, ~~the proposed amendment(s)~~ a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: None.
Claim(s) rejected: 1-11, 15-25 and 29-31.
Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attachment (Response to Arguments).
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Thjuan K. Addy

Patent Examiner: Thjuan K. Addy
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Response to Arguments

1. Applicant's arguments filed 07/17/07 have been fully considered but they are not persuasive.
2. Applicant argues that the Examiner in the Office Action equates a point-to-point distribution and point-to-point distribution (point-to-multipoint distribution), as taught by Voltolina, to the MIMO and SDMA modes of operation as recited by claim 1, however, and as one skilled in the art will recognize, there are numerous ways to perform a point-to-point and point-to-multipoint distribution in a wireless network including, for example, code division multiple access (CDMA), time division multiple access (TDMA), and so forth. Applicant states that there is no teaching or suggestion that the wireless network devices of Voltolina are actually switching their modes of operation, such as between MIMO and SDMA as recited in claims 1 and 15, when the network cell switches between point-to-point distribution and point-to-multipoint distribution. Applicant further argues that independent claims 7, 21, and 29 have similar features as claims 1 and 15 except that these claims calls for switching from SDMA to MIMO instead of the other way around, and for the same reason as claims 1 and 15, are patentable over Walton in view of Voltolina.
3. In response to Applicant's argument concerning the Examiner in the Office Action equating a point-to-point distribution and point-to-point distribution [point-to-multipoint distribution], as taught by *Voltolina*, to the MIMO and SDMA modes of operation as recited by claim 1, but as one skilled in the art will recognize, there are numerous ways

to perform a point-to-point and point-to-multipoint distribution in a wireless network including, for example, code division multiple access (CDMA), time division multiple access (TDMA), and so forth, Examiner agrees that there are numerous ways to perform a point-to-point and point-to-multipoint distribution in a wireless network, therefore, the point-to-point and point-to-multipoint distribution taught by *Voltolina*, **may be** a MIMO and SDMA system, respectively. Furthermore, Applicant's specification (See pg. 1, paragraph [0002]) states that "in such a multiple antenna wireless communication network, a point-to-point communication system **may be** a multiple input, multiple output (MIMO) system, and a point-to-multipoint communication system **may be** a spatial division, multiple access (SDMA) system." Therefore, the point-to-point and point-to-multipoint distribution, taught by *Voltolina*, **may be** a MIMO and SDMA system, respectively, although it is not specifically disclosed. Furthermore, *Walton* discloses a point-to-point mode (e.g., MIMO mode) and a point-to-multipoint mode (e.g., N-SIMO mode or SDMA).

4. In response to Applicant's argument concerning that there is no teaching or suggestion that the wireless network devices of *Voltolina* are actually switching their modes of operation, such as between MIMO and SDMA as recited in claims 1 and 15, when the network cell switches between point-to-point distribution and point-to-multipoint distribution, Examiner respectfully disagrees. Although *Voltolina* does not specifically teach or suggest the point-to-point and point-to-multipoint distribution as being a MIMO and SDMA mode of operation, respectively, *Voltolina* does teach and suggest that the wireless network devices (See Fig. 1 and user equipment (UE) 50A) do

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switch their modes of operation from point-to-point distribution to point-to-multipoint distribution (See pg. 3, paragraph [0043]). Therefore, as explained above, there are numerous ways to perform a point-to-point and point-to-multipoint distribution in a wireless network, therefore, the point-to-point and point-to-multipoint distribution taught by *Voltolina*, **may be** a MIMO and SDMA system, respectively. Furthermore, *Walton* discloses a point-to-point mode (e.g., MIMO mode) and a point-to-multipoint mode (e.g., N-SIMO mode or SDMA).

5. In response to Applicant's argument concerning that independent claims 7, 21, and 29 have similar features as claims 1 and 15 except that these claims calls for switching from SDMA to MIMO instead of the other way around, and for the same reason as claims 1 and 15, are patentable over *Walton* in view of *Voltolina*, Examiner respectfully disagrees. Similar to what was explained above, there also are numerous ways to perform a point-to-multipoint and point-to-point distribution in a wireless network, therefore, the point-to-multipoint and point-to-point distribution taught by *Voltolina*, **may be** a SDMA and MIMO system, respectively. Applicant's specification (See pg. 1, paragraph [0002]) states that "in such a multiple antenna wireless communication network, a point-to-point communication system **may be** a multiple input, multiple output (MIMO) system, and a point-to-multipoint communication system **may be** a spatial division, multiple access (SDMA) system." Therefore, the point-to-multipoint and point-to-point distribution, taught by *Voltolina*, **may be** a SDMA and MIMO system, respectively, although it is not specifically disclosed. Although *Voltolina* does not specifically teach or suggest the point-to-multipoint and point-to-point

distribution as being a SDMA and MIMO mode of operation, respectively, *Voltolina* does teach and suggest that the wireless network devices (See Fig. 1 and user equipment (UE) 50A) do switch their modes of operation from point-to-multipoint distribution to point-to-point distribution (See pg. 3, paragraph [0043]). Furthermore, *Walton* discloses a point-to-point mode (e.g., MIMO mode) and a point-to-multipoint mode (e.g., N-SIMO mode or SDMA).